IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 19917 of 2004

Between:

Y.P.Reddy, E-501634, Coach Builder, S/o.Penta Reddy,
37 years, R/o.Kondaia Palem, Nellore District.

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Nellore Region, at Nellore.
2 The Depot Manager, APSRTC, Udayagiri, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the 2nd respondents herein in proceeding with the departmental enquiry pursuant to the charge sheet in proc.No.01/610(2)/2004, Udayagiri dated 13-10-2004 pending Criminal case arising out of Crime No.43/2004 of Udayagiri P.S., as illegal, arbitrary, contrary to well established priciples of law.

Counsel for the Petitioner:MR.S.M.SUBHAN

Counsel for the Respondents: MR.R.MANMADHA REDDY, S.C. for APSRTC

The Court made the following :

ORDER:

The petitioner is working as a Coach Builder in the respondent Corporation since 1990. A crime was registered against him in Cr.No.43 of 2004 of Udayagiri Police Station on the allegation of theft of drilling machine and the said crime is pending before the concerned police. In the meanwhile, the respondent Corporation initiated a departmental enquiry against the petitioner on 13.10.2004 by issuing a Charge-sheet and simultaneously kept the petitioner under suspension pending enquiry on the same allegation of theft of the drilling machine. The petitioner approached this Court through this writ petition seeking to declare that the action of the second respondent in proceeding with the departmental enquiry pursuant to the Charge sheet dated 13.10.2004 pending Criminal case in Cr.No.43 of 2004 as illegal and arbitrary.

The allegation against the petitioner is that he committed theft of a drilling machine. The crime which was registered against the petitioner is still pending at the investigation stage. The charge sheet has not been so far filed. The second respondent initiated departmental action against the petitioner on the same allegation, since a grave allegation is made against the petitioner. It cannot be said that the departmental authority shall not proceed with the enquiry till the disposal of the matter relating to the crime registered against the petitioner as per the decision of the Supreme Court in Kendriya Vidyalaya Sangathan and others Vs. T.Srinivas. Wherein the apex Court held as follows:

“The stay of departmental proceedings shall not be a matter of course

and it has to be considered by taking into consideration of the facts and circumstances of the case. The Supreme Court further observed that where the Courts below not taking into consideration the seriousness of the charges relating to acceptance of illegal gratification by respondent employee and the desirability of continuing the respondent in service in spite of such charges against him, held, the impugned order staying disciplinary proceedings against the respondent till the conclusion of the criminal trial was not sustainable."

Since the petitioner in the case on hand is also facing a grave charge of theft of a drilling machine, it is not desirable to stay the departmental proceedings till the disposal of the matter relating to the crime registered against the petitioner. Therefore, I do not find sufficient grounds to stay the departmental proceedings. However, the second respondent is directed to take into consideration of the relevant facts leading to the commission of the crime and the material that is likely to be placed by both parties during the course of enquiry and shall give sufficient opportunity to the petitioner to participate in the enquiry and to adduce evidence if any on his behalf. The first respondent is directed to take appropriate decision on the representation of the petitioner for the revocation of the order of the suspension as early as possible.

Accordingly, the writ petition is disposed of.

04.11.2004

MRKR

To

1.The Regional Manager, APSRTC Nellore Region, Nellore.

2.The Depot Manager, APSRTC Udayagiri, Nellore District.

3.Two C.D copies.